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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,409	03/11/2004	Qingguo Wu	NOVLP098/002907	7038
22434	7590	12/23/2005	EXAMINER	
BEYER WEAVER & THOMAS LLP P.O. BOX 70250 OAKLAND, CA 94612-0250			CHEN, BRET P	
			ART UNIT	PAPER NUMBER

1762

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/800,409

Applicant(s)

WU ET AL.

Examiner

B. Chen

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 28-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1-33 are pending in this application.

#### ***Election/Restrictions***

Applicant's election without traverse of Group I, claims 1-27 in the reply filed on 11/7/05 is acknowledged.

#### ***Specification***

The disclosure is objected to because of the following informalities listed below. Appropriate correction is required.

On p. 13 paragraph 42 of the specification, the attempt to incorporate subject matter into this application by reference to 09/996619 is improper because there is no recitation that the application is commonly assigned. Reliance on a commonly assigned copending application by a different inventor may ordinarily be made for the purpose of completing the disclosure. See *In re Fried*, 329 F.2d 323, 141 USPQ 27, (CCPA 1964), and *General Electric Co. v. Brenner*, 407 F.2d 1258, 159 USPQ 335 (D.C. Cir 1968).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xia et al. (6,258,735).** Xia discloses a method of depositing a carbon doped silicon oxide film having a low dielectric constant on a substrate (col.2 lines 20-22) in which a precursor gas and an oxidizer are introduced in the presence of a plasma inside a chamber (col.2 lines 28-35). The dielectric constant is less than about 3.0 (col.3 lines 56-57) and the precursor can be organosilicon compounds containing carbon and suitable organo groups (col.2 lines 62-67). A prodigious list of compounds are recited which include carbon-carbon double bonds (col.3 lines 1-46). The oxygen containing group can nitrous oxide, carbon monoxide, carbon dioxide and water (col.3 lines 47-50). The claimed oxide can be used in the fabrication of integrated circuits (col.1 lines 8-10). However, the reference fails to specifically teach a dielectric constant of at most about 2.7.

It is noted that Xia teaches a dielectric constant is less than 3.0 as noted above. It is noted that the reference teaches that it is desirable to have a low dielectric constant and that it should be less than about 3.0. It would have been obvious to have a dielectric constant less than 2.7 because Xia teaches the desirability of a low dielectric constant and that the dielectric constant of less than about 3.0 is suggestive of the claimed dielectric constant.

The limitations of claims 1-8, 11, 16, 18-22 have been addressed above.

In claims 9-10, the applicant requires at least two carbon silicon bonds. These limitations are met in column 3.

In claims 12-15, 17, the applicant requires a specific precursor. It is noted that Xia discloses a variety of organosilicon compounds and that many compounds are interchangeable.

Art Unit: 1762

It would have been obvious to utilize the claimed compounds with the expectation of obtaining similar results.

Independent claim 23 requires the use of a plasma. This limitation is taught as indicated above. The limitations of claims 24-27 have been addressed above.

**Claims 1-33, 45-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocha-Alvarez et al. (6,797,643).** Rocha-Alvarez discloses a method of depositing a low dielectric constant film on a substrate, which includes positioning the substrate in a deposition chamber and providing a gas mixture to the deposition chamber (col.2 lines 5-9). The gas mixture includes one or more cyclic organosilicon compounds, one or more aliphatic compounds, one or more meta-stable organic compounds and one or more oxidizing gases in the presence of an electric field (col.2 lines 9-12). The dielectric constant can be less than 2.5 (claim 5). A large list of compounds are recited which include carbon-carbon double bonds (col.2 line 60 – col.3 line 56) and specifically can include hydrocarbon compounds can contain single double and triple bonds (col.3 lines 58-67). The oxygen containing group can nitrous oxide, carbon monoxide, carbon dioxide and water (col.4 lines 1-3). The claimed oxide can be used in the fabrication of integrated circuits (col.1 lines 25-27). However, the reference fails to specifically teach a CDO precursor having a carbon-carbon triple bond.

It is noted that reference fairly teaches an aliphatic compound containing a carbon-carbon bond and that the bond can be a triple bond. It would have been obvious to one skilled in the art to utilize the combination of an aliphatic compound having a carbon-carbon triple bond as taught by Rocha-Alvarez with the expectation of success.

Art Unit: 1762

The limitations of claims 2-8, 11, 16, 18-22 have been addressed above.

In claims 9-10, the applicant requires at least two carbon silicon bonds. These limitations are met in column 3.

In claims 12-15, 17, the applicant requires a specific precursor. It is noted that Rocha-Alvarez discloses a variety of organosilicon compounds and that many compounds are interchangeable. It would have been obvious to utilize the claimed compounds with the expectation of obtaining similar results.

Independent claim 23 requires the use of a plasma. This limitation is taught as indicated above. The limitations of claims 24-27 have been addressed above.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 1762

**Claims 1-27 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of copending Application No. 10/789103.** Although the conflicting claims are not identical, they are not patentably distinct from each other because changing the precursor is an obvious variation.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**Claims 1-27 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 10/820525.** Although the conflicting claims are not identical, they are not patentably distinct from each other because the elimination of a plasma is an obvious variation.


This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Chen whose telephone number is (571) 272-1417. The examiner can normally be reached on 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bc  
12/19/05

  
BRET CHEN  
PRIMARY EXAMINER